



THE FEDERAL ELECTION COMMISSION
Washington, DC 20463

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MEMORANDUM

TO: The Commission

FROM: Anthony Herman
General Counsel

Daniel A. Petalas
Associate General Counsel for Enforcement

BY: Mark Shonkwiler *MS*
Assistant General Counsel for Enforcement

Michael A. Columbo *MAC*
Attorney

SUBJECT: MUR 6730 (Michael Williams for Congress) Pre-Probable Cause
Conciliation Agreement

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I. INTRODUCTION

Attached is a proposed conciliation agreement for Michael Williams for Congress and Stephen R. Hicks in his official capacity as treasurer (the "Committee"). Attachment 1. This agreement would settle the Committee's violation of 2 U.S.C. § 441a(f) for receiving excessive contributions.

1 **II. BACKGROUND**
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3 This matter involves Michael Williams, who sought election to a U.S. Senate seat for
4 Texas at a time when it appeared likely that U.S. Senator Kay Bailey Hutchison would resign
5 and there would be a special Senate election in 2010 to replace her. Between January 12, 2009,
6 and March 31, 2010, Williams raised \$490,824.35 in contributions for his Senate campaign in
7 anticipation of that special election. During this period, the Commission published AO 2009-15
8 (White) in which the Commission unanimously stated that, consistent with prior decisions dating
9 back at least 27 years and the Commission's regulations, a candidate anticipating a special
10 election to replace Sen. Hutchison would have to refund, redesignate, or reattribute the special
11 election contributions if the special election did not occur. *See* AO 2009-15 (White) at 4-5, 7-8.
12

13 On March 31, 2010, Sen. Hutchison announced that she would not resign. Williams then
14 declared his intention to participate in the regularly-scheduled 2012 Senate elections, before
15 deciding instead to seek election to the House in the 2012 elections. Williams participated in the
16 2012 House primary election, and no other. *See* Commission's Proposed Conciliation
17 Agreement ¶¶ IV.7-IV.12, MUR 6730 (attached to Letter from Ellen L. Weintraub, FEC Chair,
18 to Thomas J. Josefiak, Committee Counsel, Apr. 16, 2013).
19

20 Because the only election in which Williams participated was the 2012 House primary
21 election, he was entitled to only one contribution limit from his donors. *See* Commission's
22 Proposed Conciliation Agreement ¶ IV.12. Although Williams refunded or redesignated
23 \$32,000 of the \$490,824.35 in special election contributions that he received before Hutchison's
24 announcement, he neither redesignated nor refunded the remaining \$458,824.35. *See id.* ¶¶ 10,
25 13. Even if Williams had redesignated those contributions to his 2012 election limit, he
26 subsequently received additional contributions from some of the same donors whose
27 contributions comprised that \$458,824.35 and his donors' aggregate contributions would result
28 in \$137,300 in excessive contributions. *See id.* ¶ 13.
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30 On April 9, 2013, the Commission found reason to believe that the Williams Committee
31 violated 2 U.S.C. § 441a(f).¹ The Commission authorized pre-probable cause conciliation
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¹ In two prior unanimous decisions, answering a Directive 69 Request and a request by the Committee pursuant to Notice 2011-11, the Commission applied its conclusion in AO 2009-15 to the Williams Committee, concluding that the Williams Committee had to refund, redesignate, or reattribute the contributions it received for the special Senate election in which he did not participate (because it never occurred). *See* First. Gen Counsel's Rpt. at 4-7.

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24 we recommend that the Commission accept this
25 agreement
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28 **IV. RECOMMENDATIONS**
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- 30 1. Accept the attached signed conciliation agreement with Michael Williams for
31 Congress and Stephen R. Hicks in his official capacity as treasurer;
32 2. Approve the appropriate letter; and
33 3. Close the file.
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